HOUSE BILL No. 1549

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3-4.

Synopsis: Availability of utility customer information. Provides that specified personal information concerning customers of a municipally owned utility is confidential and not accessible to the public.

Effective: July 1, 2001.

Dumezich

January 11, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.





First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1549

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.37-2000
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2001]: Sec. 4. (a) The following public records are excepted
from section 3 of this chapter and may not be disclosed by a public
agency, unless access to the records is specifically required by a state
or federal statute or is ordered by a court under the rules of discovery

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of



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1	higher education, including information:
2	(A) concerning any negotiations made with respect to the
3	research; and
4	(B) received from another party involved in the research.
5	(7) Grade transcripts and license examination scores obtained as
6	part of a licensure process.
7	(8) Those declared confidential by or under rules adopted by the
8	supreme court of Indiana.
9	(9) Patient medical records and charts created by a provider,
10	unless the patient gives written consent under IC 16-39.
11	(10) Application information declared confidential by the
12	twenty-first century research and technology fund board under
13	IC 4-4-5.1.
14	(11) The following personal information concerning a
15	customer of a municipally owned utility (as defined in
16	IC 8-1-2-1):
17	(A) Name.
18	(B) Residential or business address.
19	(C) Telephone number.
20	(D) Social Security number.
21	(b) Except as otherwise provided by subsection (a), the following
22	public records shall be excepted from section 3 of this chapter at the
23	discretion of a public agency:
24	(1) Investigatory records of law enforcement agencies. However,
25	certain law enforcement records must be made available for
26	inspection and copying as provided in section 5 of this chapter.
27	(2) The work product of an attorney representing, pursuant to
28	state employment or an appointment by a public agency:
29	(A) a public agency;
30	(B) the state; or
31	(C) an individual.
32	(3) Test questions, scoring keys, and other examination data used
33	in administering a licensing examination, examination for
34	employment, or academic examination before the examination is
35	given or if it is to be given again.
36	(4) Scores of tests if the person is identified by name and has not
37	consented to the release of his scores.
38	(5) The following:
39	(A) Records relating to negotiations between the department
40	of commerce, the Indiana development finance authority, the
41	film commission, the Indiana business modernization and
42	technology corporation, or economic development



1	commissions with industrial, research, or commercial
2	prospects, if the records are created while negotiations are in
3	progress.
4	(B) Notwithstanding clause (A), the terms of the final offer of
5	public financial resources communicated by the department of
6	commerce, the Indiana development finance authority, the film
7	commission, the Indiana business modernization and
8	technology corporation, or economic development
9	commissions to an industrial, a research, or a commercial
.0	prospect shall be available for inspection and copying under
.1	section 3 of this chapter after negotiations with that prospect
.2	have terminated.
.3	(C) When disclosing a final offer under clause (B), the
.4	department of commerce shall certify that the information
.5	being disclosed accurately and completely represents the terms
.6	of the final offer.
.7	(6) Records that are intra-agency or interagency advisory or
. 8	deliberative material, including material developed by a private
9	contractor under a contract with a public agency, that are
20	expressions of opinion or are of a speculative nature, and that are
21	communicated for the purpose of decision making.
22	(7) Diaries, journals, or other personal notes serving as the
23	functional equivalent of a diary or journal.
24	(8) Personnel files of public employees and files of applicants for
25	public employment, except for:
26	(A) the name, compensation, job title, business address,
27	business telephone number, job description, education and
28	training background, previous work experience, or dates of
29	first and last employment of present or former officers or
30	employees of the agency;
31	(B) information relating to the status of any formal charges
32	against the employee; and
33	(C) information concerning disciplinary actions in which final
34	action has been taken and that resulted in the employee being
35	disciplined or discharged.
36	However, all personnel file information shall be made available
37	to the affected employee or his representative. This subdivision
88	does not apply to disclosure of personnel information generally on
39	all employees or for groups of employees without the request
10	being particularized by employee name.
1	(9) Minutes or records of hospital medical staff meetings.
12	(10) Administrative or technical information that would



1	jeopardize a recordkeeping or security system.
2	(11) Computer programs, computer codes, computer filing
3	systems, and other software that are owned by the public agency
4	or entrusted to it and portions of electronic maps entrusted to a
5	public agency by a utility.
6	(12) Records specifically prepared for discussion or developed
7	during discussion in an executive session under IC 5-14-1.5-6.1.
8	However, this subdivision does not apply to that information
9	required to be available for inspection and copying under
10	subdivision (8).
11	(13) The work product of the legislative services agency under
12	personnel rules approved by the legislative council.
13	(14) The work product of individual members and the partisan
14	staffs of the general assembly.
15	(15) The identity of a donor of a gift made to a public agency if:
16	(A) the donor requires nondisclosure of his identity as a
17	condition of making the gift; or
18	(B) after the gift is made, the donor or a member of the donor's
19	family requests nondisclosure.
20	(16) Library or archival records:
21	(A) which can be used to identify any library patron; or
22	(B) deposited with or acquired by a library upon a condition
23	that the records be disclosed only:
24	(i) to qualified researchers;
25	(ii) after the passing of a period of years that is specified in
26	the documents under which the deposit or acquisition is
27	made; or
28	(iii) after the death of persons specified at the time of the
29	acquisition or deposit.
30	However, nothing in this subdivision shall limit or affect
31	contracts entered into by the Indiana state library pursuant to
32	IC 4-1-6-8.
33	(17) The identity of any person who contacts the bureau of motor
34	vehicles concerning the ability of a driver to operate a motor
35	vehicle safely and the medical records and evaluations made by
36	the bureau of motor vehicles staff or members of the driver
37	licensing advisory committee. However, upon written request to
38	the commissioner of the bureau of motor vehicles, the driver must
39	be given copies of the driver's medical records and evaluations
40	that concern the driver.
41	(18) School safety and security measures, plans, and systems,
42	including emergency preparedness plans developed under





1	511 IAC 6.1-2-2.5.
2	(c) Notwithstanding section 3 of this chapter, a public agency is not
3	required to create or provide copies of lists of names and addresses,
4	unless the public agency is required to publish such lists and
5	disseminate them to the public pursuant to statute. However, if a public
6	agency has created a list of names and addresses, it must permit a
7	person to inspect and make memoranda abstracts from the lists unless
8	access to the lists is prohibited by law. The following lists of names and
9	addresses may not be disclosed by public agencies to commercial
10	entities for commercial purposes and may not be used by commercial
11	entities for commercial purposes:
12	(1) A list of employees of a public agency.
13	(2) A list of persons attending conferences or meetings at a state
14	institution of higher education or of persons involved in programs
15	or activities conducted or supervised by the state institution of
16	higher education.
17	(3) A list of students who are enrolled in a public school
18	corporation if the governing body of the public school corporation
19	adopts a policy:
20	(A) prohibiting the disclosure of the list to commercial entities
21	for commercial purposes; or
22	(B) specifying the classes or categories of commercial entities
23	to which the list may not be disclosed or by which the list may
24	not be used for commercial purposes.
25	A policy adopted under subdivision (3) must be uniform and may not
26	discriminate among similarly situated commercial entities.
27	(d) Nothing contained in subsection (b) shall limit or affect the right
28	of a person to inspect and copy a public record required or directed to
29	be made by any statute or by any rule of a public agency.
30	(e) Notwithstanding any other law, a public record that is classified
31	as confidential, other than a record concerning an adoption, shall be
32	made available for inspection and copying seventy-five (75) years after
33	the creation of that record.
34	(f) Notwithstanding subsection (e) and section 7 of this chapter:
35	(1) public records subject to IC 5-15 may be destroyed only in
36	accordance with record retention schedules under IC 5-15; or
37	(2) public records not subject to IC 5-15 may be destroyed in the



ordinary course of business.